

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No. 837 of 2018 (O&M)
Date of Decision: May 09, 2019

Dakshin Haryana Bijli Vitran Nigam and another

... Petitioners

Versus

M/s Shreeram Society of Real Education

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Pawan Kumar Longia, Advocate,
for the petitioners.

Mr. Keshav Pratap Singh, Advocate,
for the respondent.

Amit Rawal, J. (Oral)

CM-13586-CII-2018

For the reasons stated in the civil misc. application, same is allowed. Annexures P/4 to P/6 are taken on record subject to all just exceptions.

CR No. 837-2018 (O&M)

Present revision petition is directed against the impugned order dated 05.12.2017 (Annexure P/3) whereby petitioners have been directed to release the electricity connection to the respondent.

Respondent-plaintiff instituted a suit for declaration and permanent injunction challenging the Memo No. 298 dated 18.09.2017 on the grounds taken therein as plaintiff stated to have purchased the property in open auction, therefore, cannot be fastened with liability of the previous

owner i.e. M/s Gold Field Medical College and Hospital, Chhainsa, Ballabgarh, District Faridabad. In the afore-mentioned suit, the trial Court vide order dated 12.10.2017 did not grant the injunction. The misc. appeal was filed before the Lower Appellate Court, resulting into passing of impugned order.

Mr. Pawan Kumar Longia, learned counsel, appearing on behalf of the petitioners, submitted that the Lower Appellate Court noticing the fact that the plaintiff had purchased the property in a legal proceedings initiated by Allahabad Bank under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, noticing liability qua the arrears of electricity dues, ordered for restoration of the electricity connection without payment of any dues. The said order is not sustainable in the eyes of law. Property of the plaintiff is a sister concern of M/s Gold field Medical College and Hospital and this premises also made a defaulting amount of electricity. The Bank had already recovered the outstanding amount by selling the suit property, but the electricity connection cannot be restored without payment amounting to Rs.84 lakhs. In support of his contention, learned counsel relies upon a judgment of this Court in the case of *M/s S.N. Bajaj Alloys vs. Punjab State Power Corporation Limited and others, 2017 (4) Law Herald 3215*, wherein while discussing all the case law i.e. *M/s Isha Marbles vs. Bihar State Electricity Board, 1995(2) SCC 648*, *Haryana State Electricity Board vs. M/s Hanuman Rice Mills Dhanauri, 2010(9) SCC 145* and unreported judgment *dated 17.01.2013* rendered in *CWP No. 4454 of 2012 - M/s Spray Engineering Sugars Limited vs. Punjab State Power Corporation Limited, Patiala*, to contend that where the statutory rules of supply which

are statutory in character, authorize the supplier of electricity to demand from the purchaser of property claiming fresh connection, the arrears due by previous owner, the supplier can recover the arrears from a purchaser. In other words, the previous liability is required to be cleared by the new owner.

Per contra, Mr. Keshav Pratap Singh, learned counsel, appearing on behalf of the respondent, submitted that the plaintiff had purchased the property in a legal proceedings initiated by Allahabad Bank under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 where the school under the name and style of M/s Gold Field Public School was being run and there was no outstanding dues. The liability of M/s Gold Field Medical College cannot be fastened against the present premises which according to the petitioner, was a sister concern. In such circumstances, the impugned order perfectly legal and justified. *De hor* of the fact that vide Sale Circular No. U-03/2013 dated 16.01.2013 where the property of DHBVN exists imposing the liability upon a new owner/occupier/allottee to remit the amount due from the previous consumer.

I have heard learned counsel for the parties, appraised the paper-book and of the view that there is no force and merit in the submissions of the learned counsel for the petitioners.

Relevant portion of sub-clause (b) of clause 21-A of the circular dated 16.01.2013 reads as under:-

“(b) Reconnection or new connection shall not be given to any premises where there are arrears on any account due to the Nigam unless these are cleared in advance. If the new owner/occupier/allottee remits the amount due

from the previous consumer, the Nigam shall provides reconnection or new connection depending upon whether the service remains disconnected/dismantled as the case may be. The amount so remitted will be adjusted against the dues from the previous consumer. If the Nigam gets the full or partial dues from the previous consumer through legal proceedings or otherwise, the amount remitted by the new owner/occupier to whom the connection has been effected shall be refunded to that extent. But the amount already remitted by him/her shall not bear any interest.”

It is a matter of record that the observation of the Lower Appellate Court was on account of statement suffered by the counsel has not been refuted that outstanding dues were against M/s Gold Field Medical College and Hospital and not of the school which was run in the premises and purchased by the plaintiff in an open auction held on 13.12.2006, resulting into the conveyance deed dated 18.03.2017. The alleged demand, thus, could not be fastened upon the respondent-plaintiff on the premise that M/s Gold Field Medical College and Hospital had an outstanding dues against the electricity which was a sister concern of the erstwhile school run in the premises. In such circumstances, the ratio decidendi culled out in a judgment of *M/s S.N. Bajaj Alloys* (supra) would not apply as the circular is applicable to the new owner / allottee where the amount due is from the previous owner. No other document has been placed on record to belie the observation of the Lower Appellate Court, much less that the outstanding dues of the previous consumer of the premises.

In view of above, I do not find any illegality or perversity in the impugned order. No ground for interference is made out.

Revision petition stands dismissed.

May 09, 2019
vkd

(Amit Rawal)
Judge

Whether speaking / reasoned : Yes

Whether reportable : No